

FINAL STATEMENT OF REASONS:

This action amends and adopts provisions governing the dental care services within the California Department of Corrections and Rehabilitation (Department). California Code of Regulations (CCR), Sections are being amended as a result of a Settlement Agreement, in the case of *Perez v. Tilton, et al.*, Case No. C05-5241 JSW, U.S. District Court Northern District of California. This Settlement Agreement is a result of Inmate Perez's challenge regarding inmates within the Department not receiving constitutionally adequate dental care. The initial implementation, as ordered by Judge White, must begin immediately.

Due to the serious dental care needs of inmates within the California Department of Corrections and Rehabilitation, and its inability to currently meet the immediate dental needs of the inmates, and pursuant to *Perez vs. Tilton*, it is necessary that these regulations be promulgated on an emergency basis.

These regulations, pursuant to the Settlement Agreement, provide a level of dental care required under the Eighth Amendment. These regulations implement a new Dental Priority Classification System and address the needs of patients in a timely manner ensuring appropriate dental care. These regulations establish a Dental Authorization Review (DAR) Committee as a subcommittee, which works in conjunction with the Medical Authorization Review (MAR) Committee at each institution. The Health Care Review Committee (HCR) reviews cases approved by the MAR and DAR committees. These committees are necessary and establish a central point of review and approval for medical and dental treatment.

Health care responsibilities and limitations regarding emergency, urgent, interceptive and routine rehabilitative dental care are amended and made specific regarding the timeframe in which inmates are treated.

In addition, changes for enhanced clarity, including department and divisional name changes due to the reorganization, numerical corrections, and changes in punctuation are also made to meet departmental standards.

These regulations also include additional changes that have been made to the originally proposed text. After the end of the minimum 45-day comment period, it was determined that additional amendments to the text needed to be made in order to add the Authority and Reference citation and to correct a typographical error regarding the number of calendar days following transfer from a reception center to a program facility that a newly committed inmate receive a complete examination by a dentist. A 15-Day Renote, which included the amended text, was forwarded to all individuals who within the original comment period, either provided comment to the originally proposed text or requested a copy of any additional changes.

Section 3350.1 Heading is amended to incorporate the word Dental into the section regarding treatment/service exclusions. This section includes specifics for both medical and dental services. This is necessary to clarify the specifics of both medical and dental treatment exclusions.

Subsection 3350.1(a) through (c) are unchanged.

Subsection 3350.1(d) is amended to include the attending dentist regarding inmate treatment. It also includes the dental authorization review committee as a part of the whole health care review of medical and dental treatment of inmates. This is necessary to ensure equal representation for dentistry as an interface with the oversight of the HCR Committee.

Subsection 3352.1(a) is amended to include the DAR Committee. The Title 15 currently provides for a MAR Committee and for representatives therein; however, it is not within the scope of a physician license to diagnose or treat dental disease. Equal representation is necessary for dentistry as an interface with the oversight by the HCR Committee. The DAR and the MAR are subcommittees of the HCR. The MAR would review cases specific to medical services and the DAR would review cases specific to dental services.

Subsection 3352.1(b) is amended to update the new Division of Correctional Health Care Services within the Department and to update and add new HCR Committee representatives at each institution. This is necessary to accurately reflect the changes within the Department due to the reorganization as directed by Senate Bill 737 which resulted in changes to individual unit and title name changes. This is also necessary as a result of the Stipulated Agreement of *Perez v. Tilton*.

Subsection 3352.1(c) is amended to accurately reflect the position and division name changes within the Department due to the reorganization. Due to the reorganization, the titles within the Division of Correctional Health Care Services have been changed. Decisions to approve or deny an excluded service requires one of either the Assistant Deputy Director of Clinical Policy and Programs Branch or the Deputy Director of Health Care Administrative Operations Branch or their designee be in attendance at the review committee that is making a decision, whether it be the DAR or the MAR or the HCR committee. This is necessary to ensure that both dental and medical decisions receive fair representation and an equal voice when decisions are made with regard to inmate treatment and care.

Subsection 3352.1(d) is adopted to ensure that decisions regarding medical services which have been referred by the MAR Committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Medical Director, and the medical staff of the HCR. Decisions to approve or deny an excluded service regarding medical services shall be based upon a quorum of the majority of the above members. This is necessary to ensure that decisions regarding medical services are made by medical staff/personnel that are specifically trained and knowledgeable of medical conditions and services. Furthermore, the treating physician of the inmate will notify the inmate of the committee's decision, specific to medical services.

Subsection 3352.1(e) is adopted to ensure that decisions regarding dental services which have been referred by the DAR Committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Dental Director, and the dental staff of the HCR. Decisions to approve or deny an excluded service regarding dental services shall be based upon a quorum of the majority of the above members. This is necessary to ensure that decisions regarding dental services are made by dental staff/personnel that are specifically trained and knowledgeable of dental conditions and services. Furthermore, the treating dentist of the inmate will notify the inmate of the committee's decision, specific to dental services.

New subsection 3352.2(a) is adopted to establish the DAR Committee. As part of the *Perez vs. Tilton*, Stipulated Agreement, the Department established a standard monitoring committee. This is necessary to ensure that the standards set forth by the Court for the otherwise excluded dental services for inmates are properly reviewed.

New subsection 3352.2(a)(1) through (3) is adopted to specify the purpose of the DAR Committee. The DAR shall approve or disapprove requests for otherwise excluded dental services. They are tasked with reviewing treatment recommendations for special dental care needs, and evaluating the cost efficiency and effectiveness of the dental services provided at the institution. This is necessary to specify the purpose of the DAR Committee and their duties as required by the Stipulated Agreement.

New subsection 3352.2(b) is adopted to list the representatives from each institution who will comprise the DAR Committee. The DAR membership consists of the Chief Dentist, or designee, a staff Dentist as Chairperson, and a Staff Dentist as Vice Chairperson. This is necessary to ensure that the standards set forth by the Court in the Stipulated Agreement are included in the regulatory text.

New subsection 3352.2(c) is adopted to specify that decisions made by the DAR Committee follow criteria established in Section 3350.1(d). Section 3350.1(d) details factors by which excluded conditions can be treated if approved. This section further states that committee decisions shall be documented in the inmate's unit health record. Additionally, cases that receive committee approval shall be forwarded along with all supporting documentation to the HCR. This emergency regulation is necessary to ensure that inmates receive proper dental care as required in the Stipulated Agreement. Proper documentation is necessary to ensure supporting information is maintained and forwarded to the HCR for further treatment. Timely notification of the inmate keeps the inmate informed and allows for treatment pursuant to the Stipulated Agreement.

Subsections 3354(a) through (e) are unchanged.

Subsection 3354 (f) is amended to ensure that inmates who, during a dental sick call are evaluated and scheduled into either the emergency care category, the urgent care category, the interceptive care category or the routine rehabilitative care category. The emergency or urgent care categories are inmates who are in either considerable pain or with an acute illness requiring immediate dental services to prevent death, severe or permanent disability, or if the condition is likely to remain acute, worsen, or become life threatening without treatment. Immediate treatment for an emergency shall be provided and will be available to such inmates 24 hours a day, 7 days a week. Urgent care is broken down into priority categories and care shall be provided pursuant to those categories as follows: within 24 hours of diagnosis, 30 days of diagnosis or 60 days of diagnosis. Interceptive care shall be provided to inmates within 120 days of diagnosis. Interceptive care does not require immediate treatment, however treatment within the 120-day time period is required pursuant to the Stipulated Agreement. Routine rehabilitative care is provided to inmates that have over twelve months remaining to serve on their sentence within the Department, and must meet oral health self-care requirements to be placed in this category. Such inmates shall receive treatment within one year of diagnosis and assignment. The new Dental Priority Classification System replaces the old dental class system. The Stipulated Agreement in the *Perez v. Tilton* Lawsuit requires this new Dental Priority Classification System be in place immediately and requires regulations regarding this new system. This regulation is necessary on an emergency basis to ensure that this new system is in place immediately so that it can address the needs of inmates/patients in a very timely manner ensuring proper dental care.

Subsection 3355.1(a) is unchanged.

Subsection 3355.1(b) is amended to change the number of days that each newly committed inmate, following their transfer from a reception center to a program facility from 14 days to 90 calendar days in which they receive a complete examination by a dentist who shall develop an individual treatment plan. This change was made to the original text in the 15-day re-notice. This language change was contained in the original Perez Settlement Agreement as part of the Departmental Dental Policy and Procedures; however was inadvertently not included in the originally submitted text. The Court agreed to this change to allow a more reasonable amount of time for dentists to conduct a thorough examination of inmates.

The Note Section of 3355.1 was inadvertently left off of the originally submitted text. This changed was made to the original text in the 15-day re-notice and is adopted.

Subsection 3358(a) is unchanged.

Subsection 3358(b) is amended to delete language regarding the removal of gold in an inmate's mouth. The new Dental Priority Classification System replaces the old dental class system. The Stipulated Agreement in the Perez v. Tilton Lawsuit requires this new Dental Priority Classification System be in place immediately and requires regulations regarding this new system. The value of the gold versus the administrative time and liability to insure the inmate's choice of disposal is not justifiable, and is not required in Dental Program's Inmate Dental Services Program Policy and Procedures. The new Dental Priority Classification System and the Inmate Dental Services Program Policy and Procedures were agreed upon in the Stipulated Agreement which was circulated to all interested parties for input as required by Judge White. Additionally, Federal and State OSHA guidelines stipulate specific methods of disposal of infectious waste or materials contaminated with infectious waste. Gold often is contaminated with the inmate's blood or saliva and tissue can be imbedded in the inmate/patient's tooth, which is attached to the gold.

Subsection 3358(c) is amended to include instructions to departmental dentists regarding dental appliances made from precious metal. Dental appliances made from precious metal are costly and are beyond general dental standards. Repairs to precious metal appliances are costly, require special equipment and materials to complete the repair and are not provided routinely in a general dental practice in the community. In keeping with the Stipulated Agreement, when an inmate's appliance or prosthesis requires repair, dentists shall offer the inmate the option of having a new prosthesis made if the inmate's appliance or prosthesis is made from precious metal. This will ensure cost effective treatment, and ensure proper and timely treatment pursuant to the new Dental Priority Classification System as required by the Stipulated Agreement.

DETERMINATION:

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and less burdensome to affected private persons than the action proposed.

ASSESSMENTS, MANDATES AND FISCAL IMPACT:

The Department has determined that the cost impact for the State will total \$17,320,000 and 88.5 positions in Fiscal Year 2005/2006. This regulation change will also require an additional 50.0 Office Technician positions and \$2,498,000 in Fiscal Year 2006/2007 to begin the planning phase of implementing several major policy changes in the Department's Dental Program. A Finance Letter 05/06 titled Dental Health Care Program has been submitted and a comprehensive request will follow in a subsequent Budget Change Proposal (BCP) to fund the major policy changes needed to meet an anticipated Dental Program class action lawsuit.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code (GC) Section 17561.

The Department has determined that the action will not have a significant adverse economic impact on business. The Department has made an initial determination that the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

PUBLIC COMMENTS TO ORIGINAL PROPOSED REGULATIONS:

Public Hearing: Held, December 7, 2006, at 9:00 a.m.

SUMMARIES AND RESPONSES TO ORAL COMMENTS AT THE PUBLIC HEARING:

No one commented during the Public Hearing.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS:

COMMENTS #1:

Comment A: Commenter contends that some inmates may not comprehend what the regulations mean that have been posted and that they should be read to inmates. She contends that inmates continue to request dental services and they are told to wait or pay more co-pays. She stated that a specific inmate was finally treated as a result of the regulations.

Accommodation: None.

Response A: Department contends that these regulations were written in "Plain English" pursuant to GC Section 11342.580, and these regulations satisfy the standard of

clarity provided in Section 11349. The “Clarity” standard means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them. Unfortunately, dental language may be complicated to understand for those not familiar with specific dental terminology or procedures. As in any dental setting, the dentists and those assisting the dentists should be available to answer any questions regarding the inmate’s individual dental plan or any procedures necessary. Additionally, Dental Policy and Procedures are available in the Law Library and available on audio tape for those unable to read.

These regulations are intended to provide each inmate with constitutionally adequate dental care, pursuant to the Perez Settlement Agreement. Additionally, pursuant to CCR, Section 3354.2 for inmate-initiated health care service, which includes dental services, inmates shall be charged and inmates shall pay a fee of five dollars for each visit. Finally, regulatory language clearly defines the timeframe for treatment for inmates pursuant to categories of care required.

Comment B: Commenter contends that this regulation has made her aware of the DAR and the MAR committees. She also has sought treatment and her teeth are getting worse. She states that she is on a list for treatment and she has not been seen and her face is now disfigured. She states that there could be a legal action because of what she is dealing with. She states that she is willing to cover the cost for service. For the best service she contends that there should be two dentists per yard.

Accommodation: None.

Response B: Department contends that regulatory language clearly defines the timeframe for treatment for inmates pursuant to categories of care required. Additionally, the institution in which the inmate is currently located was contacted regarding her allegations regarding her dental treatment. The inmate’s dental file was reviewed by the attending dentist and the Chief Dentist. The dental records indicate that the inmate has been seen numerous times for dental treatment, specifically every 4 weeks for treatment with the apparent goal of fabrication of her dental prostheses as requested. Her point of need of staff and inmate education is consistent with Inmate Dental Services Program Policy and Procedure. Finally, these regulations ensure that the inmate will receive adequate treatment, according to the treatment category, as required by the Perez Settlement Agreement. In order to implement these regulations, additional staff positions have been requested to ensure proper and timely treatment of inmates’ dental needs as constitutionally required.

COMMENTS #2:

Comment A: Commenter contends that the new regulations do not fix Dental, but instead adds to the medical services that are under the Federal Counts due to the

Department's failure to deliver adequate 8th Amendment medical care. Commenter states that these are international standards and that none of these standards are met in the Dental regulations.

Accommodation: None.

Response A: Department asserts that dental services within the Department are not under Receivership of the Federal Courts as the Commenter contends. Medical services are separate and are currently under Receivership. These dental regulations do not fall under the Receiver's purview. Additionally, these regulations are pursuant to the Settlement Agreement as required by the U.S. District Court Northern District of California. As ordered by Judge White, these regulations are consistent with and meet constitutionally required standards for dental services.

Comment B: Commenter contends that the reason the Medical/Dental is in the Federal Courts is because the Department displays deliberate indifference to the inmates' serious needs, excluding treatment through matters of length of inmate's sentence, availability of the service, cost, etc. He contends that these are not medical considerations, and do not abide by the 8th Amendment, but that they are invalid excuses as a result of deliberate choices made by administrators. He contends that because of these choices the prisons have inadequate personnel, inadequate equipment and services which are common in the "real" world.

Accommodation: None.

Response B: See Commenter #2, Response A above. Also, the Department contends that there is no intentional mistreatment of inmates with regards to dental services. The Department does not display deliberate indifference to the inmate's serious needs. These regulations, pursuant to the *Perez* Settlement Agreement will allow the Department additional funds and much needed positions to adequately meet the constitutional dental needs of the inmates. The Department also observes that under the Court Agreement in *Perez*, the CDCR agrees that all inmates have a right to adequate dental care. Such a right to dental care does not exist in the "real" world.

Comment C: Commenter contends that the Department is guilty of desiring a lesser standard for inmate nutrition than that suggested by the Federal Department of Agriculture or the Centers for Disease Control. He contends that the Department writes their own regulations and creates their own panel that tailors inmate nutritional needs to other administrative interests to the detriment of the inmates' nutritional needs.

Accommodation: None.

Response C: Department contends that these regulations are regarding dental services throughout the Department and were ordered pursuant to the *Perez* Stipulated Agreement. The Department contends that the constitutional needs of inmates within the Department's jurisdiction are met, and that the Department, pursuant to CCR, Section 3004, must treat inmates respectfully, impartially and fairly. Additionally, these regulations do not address issues regarding nutrition for inmates; however, the Department follows all requirements pursuant to Health and Safety Code Sections and the California Uniform Retail Food Facilities Law with regards to nutrition and food service.

Comment D: Commenter contends that because of what the Department pays their dental employees there is no incentive for them to provide quality care of procedures. He contends that the dental committees should be made up from the American Dental Association or a disinterested dental group not one comprised of departmental bureaucrats or institutions funded by State grants.

Accommodation: None.

Response D: Department contends that although the above comment does regard an aspect or aspects of the subject proposed regulatory action and must be summarized pursuant to GC Section 113435.9, the above comment with regards to dental employee's salary is either insufficiently related to the specific action or actions proposed, or generalized or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment. Additionally, the DAR Committee includes the Statewide Dental Director and selected dental designees. These members of the DAR abide by a strict code of ethics and endeavor to make decisions based upon treatment needs and guidelines set forth by law. Additionally, the membership of the DAR includes duly licensed dentists in the State of California and as such they must uphold Standards and Ethics of the State of California Board of Dental Examiners.

Comment E: Commenter contends that the average inmate cannot understand the technical words in the regulations. He contends that the average inmate would have no understanding what procedures they are entitled to in these regulations. He contends that he is a college educated person and a former member of the California Bar Association, and that he even has difficulty understanding the procedures.

Accommodation: None.

Response E: See Commenter A, Response A.

Comment F: Commenter contends that there are new dental processes available that are approved by the American Dental Association, but the Department's level of

service and the appliances used are just above the level of those used 200 years ago.

Accommodation: None.

Response F: These regulations are intended to provide each inmate with constitutionally adequate dental care, pursuant to the Perez Settlement Agreement. **Also see Commenter #2, Response C.**

Comment G: Commenter contends that he personally has had two root canals and has a gold cap and has developed a cavity below the cap. He states that he was told that the tooth would break off, it can't be saved, but it won't hurt because of the root canal. He states that this is all a lot of waste of time and now the Department wants to confiscate the gold cap.

Accommodation: None.

Response G: Department contends that any inmate may appeal any departmental decision, action, condition, or policy which they can demonstrate as having an adverse effect upon the welfare, pursuant to CCR Section 3084.1. These regulations cannot address the Commenter's individual situation and complaint. Additionally, Federal and State OSHA guidelines stipulate specific methods of disposal of infectious waste or materials contaminated with infectious waste. Gold often is contaminated with the inmate's blood or saliva and tissue can be imbedded in the inmate/patient's tooth, which is attached to the gold.

Comment H: Commenter contends that the mining of an inmate's mouth for gold is clearly a Fifth Amendment violation because it is taking without compensation. He contends that it is also a Fourth Amendment violation. He states that dentists in the outside world do not stoop to confiscate the precious metals from the mouths of their patients. He contends that this is a tax on inmates. He also contends that to inmates who earn 13 cents an hour, the gold taken out of their mouth is a significant amount of property.

Accommodation: None.

Response H: Department contends that the Fifth Amendment is related to legal procedure. Its guarantees stem from English common law as established by the Magna Carta in 1215. The taking of private property without just compensation refers to eminent domain, which is the taking of land for public use. This piece of the Fifth Amendment does not pertain to the removal of gold from an inmate's mouth without being compensated. Additionally, Federal and State OSHA guidelines stipulate specific methods of disposal of infectious waste or materials contaminated with infectious waste. Gold often is contaminated with the inmate's blood or saliva and tissue can be imbedded in the inmate/patient's tooth, which is attached to the gold. Finally, Dental appliances made from precious metal are

costly and are beyond general dental standards. Repairs to precious metal appliances are costly, require special equipment and materials to complete the repair and are not provided routinely in a general dental practice in the community. In keeping with the Stipulated Agreement, when an inmate's appliance or prosthesis requires repair, dentists shall offer the inmate the option of having a new prosthesis made if the inmate's appliance or prosthesis is made from precious metal. This will ensure cost effective treatment, and ensure proper and timely treatment pursuant to the new Dental Priority System as required by the Stipulated Agreement.

Comment I: Commenter contends that the reasoning is disingenuous regarding possible infection. He states that any infection could be removed at minimal cost by placing the material in the autoclave or into a paper cup containing disinfectant.

Accommodation: None.

Response I: Department contends that Federal and State OSHA guidelines stipulate specific methods of disposal of infectious waste or materials contaminated with infectious waste. Gold often is contaminated with the inmate's blood or saliva and tissue can be imbedded in the inmate/patient's tooth, which is attached to the gold. Standards for infectious waste disposal apply to inmate care as well as care in the community.

Comment J: Commenter contends that the Department requires or permits inmates to mail out property that is no longer permitted, he asks why not the dental gold.

Accommodation: None.

Response J: Department contends that Federal and State OSHA guidelines stipulate specific methods of disposal of infectious waste or materials contaminated with infectious waste. Gold often is contaminated with the inmate's blood or saliva and tissue can be imbedded in the inmate/patient's tooth, which is attached to the gold. There are also strict guidelines that govern the mailing and shipping of hazardous materials and must be adhered to pursuant to OSHA.

Comment K: Commenter contends that if an inmate is required to forfeit their dental gold, it would violate the Constitution. The Commenter mentions two court cases: *Beck v. Skon* and *Vignolo v. Miller*. The Commenter contends that it makes little sense to cause an inmate to purchase a complete new prosthesis of inferior material instead of repairing the quality piece of work.

Accommodation: None.

Response K: Department contends that the *Beck v. Skon* and *Vignolo v. Miller* cases are not relevant to the Dental regulations with regards to the inmate's forfeiture of dental gold. Nor do these cases mention Constitutional violations with regards to inmates' possession of dental gold. Additionally, the Department does not use

inferior material in any dental procedure. As stated above in Response J, the Department must adhere to laws that govern dental procedures and those procedures, when associated with hazardous or contaminated materials must be within the guidelines of CAL OSHA requirements. Newer materials for dental treatment are regularly being developed, some of which are superior to the past use of gold. Undoubtedly, the Commenter would prefer the newer materials that are used in the community.

Comment L: Commenter contends that Justice Kennedy of the US Supreme Court stated that just because something is permitted by law or the Constitution that it is right. Commenter contends that Justice Kennedy stated that although some laws are permissible, they are unwise and unjust – Commenter contends that this is one of those laws that has not been approved by the Court.

Accommodation: None.

Response L: Department contends that these regulations are pursuant to the Perez Settlement Agreement. This Settlement Agreement is a result of Inmate Perez's challenge regarding inmates within the Department not receiving constitutionally adequate dental care. The initial implementation was ordered by Judge White, Case No. C05-5241 JSW, U.S. District Court Northern District of California. These regulations are intended to provide each inmate with constitutionally adequate dental care.

COMMENTS #3:

Comment A: Commenter contends that there are no preventative services on a routine basis besides dental in spite of the claims that this will be changed. He contends that it is common knowledge that the prison system cannot operate due to overcrowding. And these changes cannot happen if there is no new budget that includes changes to increase revenue, restricts over-budget problems and streamline operations.

Accommodation: None.

Response A: Department contends that these regulations are intended to provide each inmate with constitutionally adequate dental care. Regardless of overcrowding, the Department must carry out the Settlement Agreement as ordered by Judge White, Case No. C05-5241 JSW, U.S. District Court Northern District of California. A Finance Letter 05/06 titled Dental Health Care Program has been submitted and a comprehensive request will follow in a subsequent BCP to fund the major policy changes needed to meet an anticipated Dental Program class action lawsuit.

SUMMARIES AND RESPONSES TO 15-DAY RE-NOTICE

WRITTEN PUBLIC COMMENTS:

COMMENTER #1:

Comment A: Commenter contends that the dental regulations are “mumbo jumbo” and she complains about physical problems that inmates are having as a result of the bad dental situation in the institution.

Accommodation: None.

Response A: Department contends that the above comment must be summarized pursuant to GC Section 113435.9, however, the comment is irrelevant because it is not specifically directed at the Department’s proposed action, specific text, or to the procedures followed by the Department in proposing or adopting the 15-day re-notice text.

Comment B: Commenter contends that she agrees with subsections 3350.1(d) and 3352.2(b). She states that subsection 3350.1(d)(2)(A) and (B) does apply to her and that she has been waiting for an impression for her stay-plate. She states that she has the funds and the time and has asked to see the DAR Committee. She continues to describe the problems that she is having with her health and with the dentists. She states she wants to meet the people on the committee to communicate. She also refers to subsection 3354(f) – she continues to describe problems with the process regarding her crown and her bridge. She states that she was getting the work done when she was arrested. Finally, she states that these regulations are a giant step in the right direction.

Accommodation: None.

Response B: Department contends that the above comment must be summarized pursuant to GC Section 113435.9, however, the comment is irrelevant because it is not specifically directed at the Department’s proposed action, specific text, or to the procedures followed by the Department in proposing or adopting the 15-day re-notice text. Additionally, the regulations cannot address or remedy Commenter’s specific situation or complaint – regulations set standards.

ADDENDUM TO FINAL STATEMENT OF REASONS

The Perez Stipulated Agreement and Exhibits A and B to the Stipulated Agreement, were available to the public as a public document and were made available to the public upon request before and during the rulemaking period. These documents are being added to the Rulemaking File, as attachments to this Addendum to the Final Statement of Reasons.

The initial text of Emergency regulations dated August 31, 2006, which was filed and accepted pursuant to the Administrative Procedure Act with the Office of Administrative Law was submitted properly and as a complete document which included all seven pages of text. Upon filing with the Secretary of State on October 3, 2006, the seventh page of the text was inadvertently left off. The text was, however, properly noticed in the California Notice Register and was properly noticed, as required by Government Code section 11346.4(a) to notify all interested parties at least 45 days prior to the Public Hearing. For purposes of filing the Certificate of Compliance of the Emergency regulations, the seventh page retains the annotations, as required by Government Code section 11346.2(a)(3), showing the amendments to section 3358(c) of Title 15.